Article - Estates and Trusts

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§14.5–412.

(a) (1) In this section the following words have the meanings indicated.

(2) "Life expectancy" means the life expectancy published from time to time in the life tables issued by the U.S. Department of Health and Human Services.

(3) "Net annual income" means the gross income of a trust estate during a fiscal year minus trust commissions and expenses attributable to income for that fiscal year.

(b) Subject to the provisions of this section, a trustee may terminate a trust without an order of court if the fair market value of the trust as of the last anniversary date of the trust is $100,000 or less.

(c) (1) (i) A trustee proposing to terminate a trust under this section shall send notice of the proposed termination to each cotrustee and each qualified beneficiary of the trust at the last known address of the cotrustee or qualified beneficiary.

(ii) The notice described in subparagraph (i) of this paragraph shall be:

1. Personally delivered; or

2. Mailed by certified mail, postage prepaid, return receipt requested.

(2) The notice required under paragraph (1) of this subsection shall contain:

(i) The name of the trust;

(ii) The name of the person who created the trust;

(iii) The date on which the trust was established;

(iv) The name and address of the trustee seeking to terminate the trust;

(v) The name of any cotrustee;

(vi) A statement that the effective date of the termination shall be at least 90 days after the date on which notice under paragraph (1) of this subsection has been received by each cotrustee and each qualified beneficiary;

(vii) A statement of the reasons for termination of the trust;

(viii) The approximate amount and the manner of calculation of each distribution of the trust estate; and

(ix) A statement of the right to object and the procedures to follow under subsection (d) of this section.

(d) (1) A person entitled to notice under subsection (c) of this section that objects to the termination of a trust shall send written objection to the termination.

(2) The written objection described in paragraph (1) of this subsection shall be personally delivered or mailed by certified mail, postage prepaid, return receipt requested, within 60 days after the date on which notice that is sent under subsection (c)(1) of this section is received by the objecting party, to the trustee proposing to terminate the trust at the address in the notice.

(e) (1) If no qualified beneficiary or cotrustee delivers a timely objection in accordance with the provisions of subsection (d) of this section, the trust shall be terminated and the trust estate shall be distributed in accordance with the provisions of subsection (f) of this section.

(2) If a qualified beneficiary or cotrustee delivers a timely written objection in accordance with the provisions of subsection (d) of this section, the trust may not be terminated unless the objection is withdrawn in writing by the objecting party within 90 days after receipt of the notice by the objecting party.

(f) (1) A trust estate that is terminated under this section shall be distributed in any manner unanimously agreed on by all qualified beneficiaries.

(2) (i) If the qualified beneficiaries do not unanimously agree to a manner of distribution, the distribution shall be made in accordance with the provisions of this paragraph.

(ii) A qualified beneficiary that has a present interest in the trust estate shall receive an amount equal to the present value of an annuity equal to the proportionate share of the qualified beneficiary of the average net annual income of the trust as of the last three anniversary dates of the trust for a term equal to the life expectancy of the qualified beneficiary, at the interest rate for valuing vested benefits provided by the Pension Benefit Guaranty Corporation for the month immediately preceding the date on which the notice under subsection (c)(1) of this section is sent.

(iii) The amount of the trust estate remaining after distribution to qualified beneficiaries having a present interest in the trust estate shall be distributed to qualified beneficiaries having a future interest in the trust estate in whatever proportions are provided for under the terms of the governing instrument under which the trust was created.

(g) The existence of spendthrift or similar protective language in the governing instrument under which the trust was created may not prevent termination under this section.

(h) All expenses incurred by the trustee incident to the termination of a trust under this section shall be paid by the trust estate.

(i) A distribution to a minor qualified beneficiary shall be made to the custodian of the minor under the Maryland Uniform Transfers to Minors Act.

(j) This section may not be construed to limit the right of a trustee to terminate a trust in accordance with applicable provisions of the governing instrument under which the trust was created.

(k) A trust may be terminated under this section if:

(1) The trustee has determined that termination of the trust is in the best interests of the qualified beneficiaries; and

(2) The governing instrument does not expressly prohibit termination of the trust regardless of the size of the trust.

(l) A trust may not be terminated under this section if:

(1) The provisions of the governing instrument make the trust eligible to qualify for the marital deduction for United States estate tax or for United States gift tax purposes under the Internal Revenue Code of 1986, as amended, unless all qualified beneficiaries agree that all of the trust estate shall be distributed to the spouse of the creator of the trust; or

(2) The provisions of the governing instrument make the trust qualify, in whole or in part, for a charitable deduction for United States estate tax,

United States gift tax, or United States income tax purposes under the Internal Revenue Code of 1986, as amended, unless all qualified beneficiaries agree that all of the trust estate shall be distributed to one or more qualified beneficiaries that qualify for the charitable deduction under the Internal Revenue Code of 1986, as amended.

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